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AMENDED IN SENATE JUNE 13, 2002

AMENDED IN ASSEMBLY MAY 23, 2002

AMENDED IN ASSEMBLY APRIL 17, 2002

AMENDED IN ASSEMBLY APRIL 2, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2235

Introduced by Assembly Member Vargas

(Principal coauthor: Senator Peace)

(Coauthors: Assembly Members Alquist, Calderon, Cardoza, Cedillo, Chavez, Chu, Correa, Diaz, Dickerson, Dutra, Firebaugh, Florez, Goldberg, Horton, Keeley, Kehoe, Koretz, Liu, Longville, Nakano, Negrete McLeod, Robert Pacheco, Shelley, Steinberg, Strickland, Strom-Martin, Thomson, Wayne, Wright, Wyman, and Zettel)

(Coauthors: Senators Alarcon, Alpert, Burton, Escutia, Figueroa, Johnson, Kuehl, Margett, O'Connell, Perata, Romero, Soto, and Torlakson)

February 20, 2002

An act to amend Section 12302.25 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2235, as amended, Vargas. IHSS: employer of record.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

Existing law requires that on or before January 1, 2003, each county shall act as, or establish, an employer for IHSS providers for certain purposes.

This bill would require each county to provide the department with documentation to demonstrate compliance with that requirement, and would authorize the department to implement certain sanctions with respect to any county that has not complied with that requirement. By imposing this requirement on counties, this bill would result in a state-mandated local program.

This bill would provide that if a county fails to provide the above documentation, the department shall withhold certain funds from the county.

This bill would also require each county that fails to meet the documentation requirement to provide detailed information to the department of expenditures for in-home supportive services from the social services account in the local health and welfare trust fund and savings from the implementation of coverage for personal services under the Medi-Cal program. By imposing those requirements *upon each county*, this bill would result in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. Section 12302.25 of the Welfare and Institutions Code is amended to read:

12302.25. (a) On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers under Section 12302.2 for the purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and other applicable state or federal laws. Each county may utilize a public authority or nonprofit consortium as authorized under Section 12301.6, the contract mode as authorized under Sections 12302 and 12302.1, county administration of the individual provider mode as authorized under Sections 12302 and 12302.2 for purposes of acting as, or providing, an employer under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code, county civil service personnel as authorized under Section 12302, or mixed modes of service authorized pursuant to this article and may establish regional agreements in establishing an employer for purposes of this subdivision for providers of in-home supportive services. Within 30 days of the effective date of this section, the department shall develop a timetable for implementation of this subdivision to ensure orderly compliance by counties. Recipients of in-home supportive services shall retain the right to choose the individuals that provide their care and to recruit, select, train, reject, or change any provider under the contract mode or to hire, fire, train, and supervise any provider under any other mode of service. Upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers pursuant to this subdivision, counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option.

(b) Nothing in this section shall prohibit any negotiations or agreement regarding collective bargaining or any wage and benefit enhancements.

(c) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services.

1 (d) Prior to implementing subdivision (a), a county shall
2 establish an advisory committee as required by Section 12301.3
3 and solicit recommendations from the advisory committee on the
4 preferred mode or modes of service to be utilized in the county for
5 in-home supportive services.

6 (e) Each county shall take into account the advice and
7 recommendations of the in-home supportive services advisory
8 committee, as established pursuant to Section 12301.3, prior to
9 making policy and funding decisions about the program on an
10 ongoing basis.

11 (f) In implementing and administering this section, no county,
12 public authority, nonprofit consortium, contractor, or a
13 combination thereof, that delivers in-home supportive services
14 shall reduce the hours of service for any recipient below the
15 amount determined to be necessary under the uniform assessment
16 guidelines established by the department.

17 (g) Any agreement between a county and an entity acting as an
18 employer under subdivision (a) shall include a provision that
19 requires that funds appropriated by the state for wage increases for
20 in-home supportive services providers be used exclusively for that
21 purpose. Counties or the state may undertake audits of the entities
22 acting as employers under the terms of subdivision (a) to verify
23 compliance with this subdivision.

24 (h) Each county shall provide the department with
25 documentation to demonstrate compliance with this section. The
26 documentation shall include, but is not limited to, ~~the public~~
27 ~~authority ordinance and employee relations procedures, or the~~
28 ~~invitations to bid and requests for proposal for contract services.~~
29 *to any of the following:*

30 (1) *The public authority ordinance and employee relations*
31 *procedures.*

32 (2) *The invitations to bid and requests for proposal for contract*
33 *services for the contract mode.*

34 (3) *An invitation to bid and request for proposal for the*
35 *operation of a nonprofit consortium.*

36 (4) *A county board of supervisors' resolution resolving that the*
37 *county has chosen to act as the employer required by subdivision*
38 *(a) either by utilizing county employees, as authorized by Section*
39 *12302, to provide in-home supportive services or through county*
40 *administration of individual providers.*

1 (i) Section 10605 may be applied in each county that has not
2 complied with this section by January 1, 2003.

3 (j) If a county fails to provide the documentation required by
4 subdivision (h), the department shall withhold that portion of the
5 county's quarterly expense claim that is related to the
6 implementation of this section.

7 (k) Any county that does not provide the documentation
8 required by subdivision (h) shall provide to the department
9 detailed information of all expenditures for in-home supportive
10 services from the local social services account of the local health
11 and welfare trust fund established pursuant to Section 17600.10.
12 Each county shall also provide detailed information about county
13 savings attributed to the implementation of Section 14132.95.

14 SEC. 2. Notwithstanding Section 17610 of the Government
15 Code, if the Commission on State Mandates determines that this
16 act contains costs mandated by the state, reimbursement to local
17 agencies and school districts for those costs shall be made pursuant
18 to Part 7 (commencing with Section 17500) of Division 4 of Title
19 2 of the Government Code. If the statewide cost of the claim for
20 reimbursement does not exceed one million dollars (\$1,000,000),
21 reimbursement shall be made from the State Mandates Claims
22 Fund.

